

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

HECTOR MANUEL BOSSIO, JR.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:17-CV-704-WHA
)	[WO]
COL. ROBINSON, <i>et al.</i> ,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Before the court is Plaintiff's Request for Special Injunction, which the court considers to be a request for a preliminary injunction. Doc. 15. Plaintiff seeks to enjoin Defendants from withholding legal materials and books maintained with his personal property in the Montgomery County Detention Facility's booking room. Upon review, the court concludes that the motion for preliminary injunction is due to be DENIED.

I. DISCUSSION

The decision to grant or deny a preliminary injunction "is within the sound discretion of the district court." *Palmer v. Braun*, 287 F.3d 1325, 1329 (11th Cir. 2002). This court may grant a preliminary injunction only if Plaintiff demonstrates each of the following prerequisites: (1) a substantial likelihood of success on the merits; (2) irreparable injury will occur absent issuance of the injunction; (3) the threatened injury outweighs the potential damage the requested injunction may cause the non-moving parties; and (4) the injunction would not be adverse to the public interest. *Id.*; *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998); *Cate v. Oldham*, 707 F.2d 1176, 1185 (11th Cir. 1983); *Shatel Corp. v. Mao Ta Lumber & Yacht Corp.*, 697 F.2d 1352, 1354–55 (11th Cir. 1983). "In this Circuit, [a] preliminary injunction is an

extraordinary and drastic remedy not to be granted unless the movant clearly established the burden of persuasion as to the four requisites.” *McDonald’s*, 147 F.3d at 1306 (internal quotation marks omitted); *All Care Nursing Service, Inc. v. Bethesda Mem’l Hosp. Inc.*, 887 F.2d 1535, 1537 (11th Cir. 1989) (holding that a preliminary injunction is issued only when “drastic relief” is necessary); *Texas v. Seatrain Int’l, S.A.*, 518 F.2d 175, 179 (5th Cir. 1975) (holding that a grant of preliminary injunction “is the exception rather than the rule,” and movant must clearly carry the burden of persuasion). “The chief function of a preliminary injunction is to preserve the status quo until the merits of the controversy can be fully and fairly adjudicated.” *Suntrust Bank v. Houghton Mifflin Co.*, 268 F.3d 1257, 1265 (11th Cir. 2001) (internal quotation marks and citation omitted).

The court has carefully reviewed Plaintiff’s request for a preliminary injunction and finds his request for preliminary injunctive relief overlaps with the relief requested in his civil rights action and that the action will afford him with adequate redress for his allegations. *See* Doc. 1 at 2–3 (articulating that Plaintiff’s civil rights claims are based in part on Defendants’ seizure of his “legal materials”). Inasmuch as Plaintiff has a forum for his complaint, equitable remedies—such as preliminary injunctions—are not appropriate. Plaintiff’s request for preliminary injunctive relief also is devoid of any allegation he will suffer specific and irreparable harm if an injunction is not issued. To establish irreparable injury, Plaintiff must show that he will suffer harm that “cannot be redressed by a legal or an equitable remedy” through the ordinary course of litigation. *See Instant Air Freight Co. v. C.F. Air Freight, Inc.*, 882 F.2d 797, 801 (3rd Cir. 1989) (“The preliminary injunction must be the only way of protecting the plaintiff from harm.”). For these reasons, a preliminary injunction is not warranted.

II. CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. The Motion for Preliminary Injunction filed by Plaintiff (Doc. 15) be DENIED; and
2. This case be referred to the undersigned for additional proceedings.

It is ORDERED that **on or before December 14, 2017**, the parties may file an objection to the Recommendation. Any objections filed must specifically identify the factual findings and legal conclusions in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11th Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE on this 30th day of November, 2017.



GRAY M. BORDEN
UNITED STATES MAGISTRATE JUDGE